

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Telecommunications Relay Services and)	CG Docket No. 03-123
Speech-to-Speech Services for)	
Individuals with Hearing and Speech)	
Disabilities)	
)	
Structure and Practices of the Video Relay)	CG Docket No. 10-51
Service Program)	
)	
)	

**SUPPLEMENTAL FILING OF THE TELECOMMUNICATIONS RELAY SERVICES
ADMINISTRATOR REGARDING REASONABLE RATES FOR VRS SERVICE**

I. Introduction

On April 30, 2012 Rolka Loube Saltzer Associates LLC (RLSA), as Interstate Telecommunications Relay Services (TRS) Fund Administrator (the Administrator), submitted proposed compensation rates, demand projections, projected fund size and proposed carrier contribution factor for the period July 2012 through June 2013, in accordance with section 64.604 of the Federal Communications Commission's (FCC or Commission) rules.¹

In accordance with the Consumer and Governmental Affairs Bureau's waiver of the Fund Administrator filing requirement for video relay service (VRS) payment formulas and revenue requirements pending further guidance, RSLA did not recommend changes in the VRS rates at

¹ 47 C.F.R. §64.604 (c)(5)(iii)(H).

that time² The Order explained that the current rate structure and practices in the VRS market were under review and the current interim rate structure would continue in effect pending resolution of the proceeding.

The current interim rates are:

Table 1: VRS Current Interim Rates		
VRS	MOU	2011-2012 Rates
Tier 1	<50,000	\$ 6.2390
Tier 2	50,001 to 500,000	\$ 6.2335
Tier 3	>500,000	\$5.0668

Upon further analysis of the VRS data submitted by the providers, RLSA is submitting this supplemental filing to offer recommendations for the proposed VRS rates for the Commission to consider setting for the balance of the current rate year.

RLSA recommends the following:

1. The Tier 1 rate should be equal to the Tier 2 rate.
2. The Tier 2 and Tier 3 rates should decrease by one-third of the difference between the current rate and the weighted average cost of service for the years 2010, 2011, and 2012.³
3. The size of the tiers should be integrated into the annual rate-making proceedings rather than be established in a rule making proceeding.

² Structure and Practices of the Video Relay Service Program, CG Docket No. 10-51 *et al*, Order, DA 12-687 (Released April 30, 2012) (“VRS Rate Waiver Order”).

³ The cost data for 2010 and 2011 are the actual costs of the providers and the cost data for 2012 are the projected costs of the providers.

II. Cost Analysis

Data submitted by the providers in response to the Administrator's annual data request are shown in Table 2. The data are summed across the providers by category and then divided by annual VRS minutes.

Table 2: VRS Cost Composition			
Category	Actual 2010	Actual 2011	Projected 2012
Facilities	\$ 0.2883	\$ 0.2556	\$ 0.2698
Communications Assistants' (CA) Related	\$ 1.4647	\$ 1.3527	\$ 1.6418
Non-CA Relay Center	\$ 0.4098	\$ 0.3701	\$ 0.3964
Indirect	\$ 0.6556	\$ 0.5489	\$ 0.5818
Depreciation	\$ 0.2176	\$ 0.1979	\$ 0.1739
Marketing	\$ 0.0504	\$ 0.0441	\$ 0.0466
Outreach	\$ 0.2741	\$ 0.2606	\$ 0.2594
Other	\$ 0.1185	\$ 0.0823	\$ 0.0021
Return on Investment	\$ 0.0702	\$ 0.0575	\$ 0.0440
Total Cost	\$ 3.5493	\$ 3.1698	\$ 3.4158

The downward trend in actual cost of service from 2010 to 2011 is reversed in the projected data for 2012. The leading factor driving the 2012 projected increase is the substantial increase in communications assistants' cost. These costs are projected to increase by 21 percent in 2012. These increases appear to be on the very high end of labor compensation increases and need to be scrutinized closely for reasonableness.

Another driver for the increase in the projected 2012 VRS costs is an increase in the indirect cost category. The indirect costs shown in Table 2 can be divided into ten categories. The high cost categories are Operations Support, Financial/Accounting, Legal/Regulatory and Engineering, as shown below:

Table 3: Indirect Expenses			
Category	2010	2011	2012
1. Financial/Accounting	0.1450	0.0934	0.0888
2. Legal/Regulatory	0.1101	0.0604	0.0801
3. Engineering	0.1442	0.1309	0.1403
4. Research and Development	0.0486	0.0542	0.0523
5. Operations Support	0.1751	0.1521	0.1570
6. Human Resources	0.0064	0.0324	0.0342
7. Billing	0.0004	0.0005	0.0004
8. Contract Management	0.0000	0.0000	0.0000
9. Risk Management	0.0011	0.0015	0.0019
10. Other Corporate Overheads	0.0245	0.0237	0.0268
Total Indirect Costs	0.6556	0.5489	0.5818

The return on investment is calculated without accounting for the requirement to pay federal corporate income tax. It is based solely on the FCC's 11.25% rate of return that was adopted in 1990. Accounting for the corporate income tax increases the cost by approximately 2 cents per minute.⁴

Table 4: VRS Cost including Federal Corporate Income Taxes			
Category	2010	2011	2012
Return on Investment	\$0.0949	\$0.0778	\$0.0594
Total Cost	\$3.5740	\$3.1900	\$3.4313

The total cost does not include costs associated with purchasing customer equipment that is subsequently provided to customers free of charge. Adding customer premise equipment would increase the total cost by approximately \$0.10 per minute. RLSA recommends these costs be excluded from the VRS rate calculation consistent with Commission precedent.

⁴ The corporate income tax calculation was based on a 15.21% grossed-up cost of capital. That factor was calculated using the following equation: $15.21 = 11.25 * (1 + (EP * Tax / (1 - Tax)))$, where the EP, equity percentage, 63.8, is based on the factors used to determine the 11.25% return, and a 35% tax rate. See Represcribing the Authorized Rate of Return for Interstate Services of Local Exchange Carriers, CC Docket No.89-624, *Order*, FCC 90-315 (Order released December 7, 1990, corrected December 21, 1990).

In its July 12, 2006 Memorandum Opinion and Order released on July 12, 2006 in CG Docket No. 03-123, FCC 06-88 the FCC rejected a provider's request to recoup the costs of video cameras to be installed at the customer premises in order for the customer to be able to use VRS. The Commission stated:⁵

The Commission has consistently stated that compensable expenses must be *the providers'* expenses in making the service available and not the customer's costs of receiving the service.⁵⁹ Compensable expenses, therefore, do not include expenses for customer premises equipment – whether for the equipment itself, equipment distribution, or installation of the equipment or any necessary software.

⁵⁹ See, e.g., *2004 TRS Report & Order*, 19 FCC Rcd at 12543-12544, paras. 179, 181.

Although these costs are not included in the Administrator's recommended rates, the data are provided herein in order to provide a complete record of this information.

Table 5: VRS Cost including Customer Premise Equipment			
Category	2010	2011	2012
Customer Premise Equipment	0.1073	0.0899	0.1047
Total Cost	3.6813	3.2799	3.5360

III. Rate Recommendation

RLSA recommends that the VRS rate should be based on the weighted average cost of service for the years 2010, 2011 and 2012. That weighted average cost is \$3.396 (including accounting for the federal corporate income tax liability). Because that cost is substantially less than current rates, RLSA recommends that cost based rates be phased in over a multi-year time period. At this time, RLSA recommends that the Commission take the first step in that process

⁵ *Id.* at ¶ 17 (emphasis in original). See also *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities, Report and Order and Declaratory Ruling*, CG Docket No. 03-123, FCC 07-186 (Order released November 19, 2007) at ¶ 82.

by reducing the current VRS rates by one-third of the difference between the current rate and a three year weighted average cost. These recommended rates are \$5.2877 for Tiers 1 and 2 and \$4.5099 for Tier 3.⁶ Additional recommendations regarding the size of rate changes and the number of years over which the phase-in would occur will depend on an analysis of changes in industry structure and the cost-of-service.

With regard to Tier 1, RLSA recommends that the rate for Tier 1 be set equal to the rate for Tier 2. The FCC instituted the Tiers in order to take into consideration differences in firm sizes and costs. However, because of the substantial reduction in the number of firms providing VRS, there may no longer be a need for three Tiers defined in terms of minutes. RLSA believes that the Commission should have the ability to adjust both the number of tiers and the size of the tiers in order to respond to the changing composition of the VRS service provider industry. The substantial turn-over in the firms providing VRS is reflected in the fact that while nine firms⁷ provided VRS in 2010 and 10 firms⁸ provided VRS in 2011, only eight firms⁹ provided projected cost data for 2012. Three¹⁰ of those eight firms who offered 2012 projections are no longer providing VRS and one additional firm¹¹ that is not represented in the data or projections has been conditionally certified and entered the VRS market.

Because of these changes in the number of firms and their relative size, RLSA is recommending that the determination of the size of the Tiers be integrated into the annual rate-making proceedings. During those proceedings, the Administrator would analyze the cost data

⁶ These rates are determined using the following equation: $\text{new rate} = \text{old rate} - ((\text{old rate} - \text{cost})/3)$.

⁷ American Network, AT&T, Convo, CSDVRS, Healinc, Purple, Snap, Sorenson, and Sprint.

⁸ American Network, AT&T, Convo, CSDVRS, Gracias, Healinc, Purple, Snap, Sorenson, and Sprint

⁹ American Network, Convo, CSDVRS, Gracias, Healinc, Purple, Snap, and Sorenson

¹⁰ American Network, Healinc, and Snap.

¹¹ CAAG.

and provide the Commission with a recommendation regarding Tier sizes and rates. This would allow the Commission the flexibility to change the Tier sizes to meet the needs of the industry on annual basis. In the alternative, the Commission could determine an annual reduction in the differences in Tier rates if the Commission finds that such a reduction is in the public interest.

IV. Conclusion

Rolka Loube Saltzer Associates respectfully requests the Commission to issue an Order consistent with the recommendations set forth above in this Supplemental Filing.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "D. Rolka", is centered on the page.

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Submitted: October 15, 2012